



STATE BOARD OF EQUALIZATION

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No. 82/112

October 1, 1982

TO COUNTY ASSESSORS:

SALES TAX AS AN ELEMENT OF COST FOR EQUIPMENT
LEASED TO FEDERAL AGENCIES

In Assessor's Letter 79/16, we advised that an allowance for sales tax should be included as part of the value of equipment leased to federal instrumentalities for 1979 and subsequent lien dates. This advice was based on legislation (Senate Bill 472, Chapter 1211, Statutes of 1978) which provided that leases of personal property to the federal government are subject to sales tax.

In United States v. California State Board of Equalization, 650 F. 2d 1127, the Court of Appeals held that the legal incidence of this tax fell on the federal government and therefore violated the federal immunity from state taxation, even though the California statutes provided that the liability for the tax was on the lessor. The United States Supreme Court affirmed the decision in California State Board of Equalization v. United States, No. 81-1000, --U.S.--. As a consequence, sales tax is not a part of the normal replacement cost of equipment leased to a federal instrumentality, and it follows that the fair market value of such equipment should not include a component for sales tax.

If you have questions or comments regarding this letter, please contact Charlie Knudsen of this division.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:ab
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